

# COUNCIL COPY

## PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

11-047-O

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM MU-B, MIXED USE-BUSINESS PARK, TO I-G, INDUSTRIAL-GENERAL, OF THE PROPERTY LOCATED AT 306 SOUTH CENTRAL AVENUE (D.M.A. & ASSOCIATES, FN 11-106)

### CITY PROPOSAL:

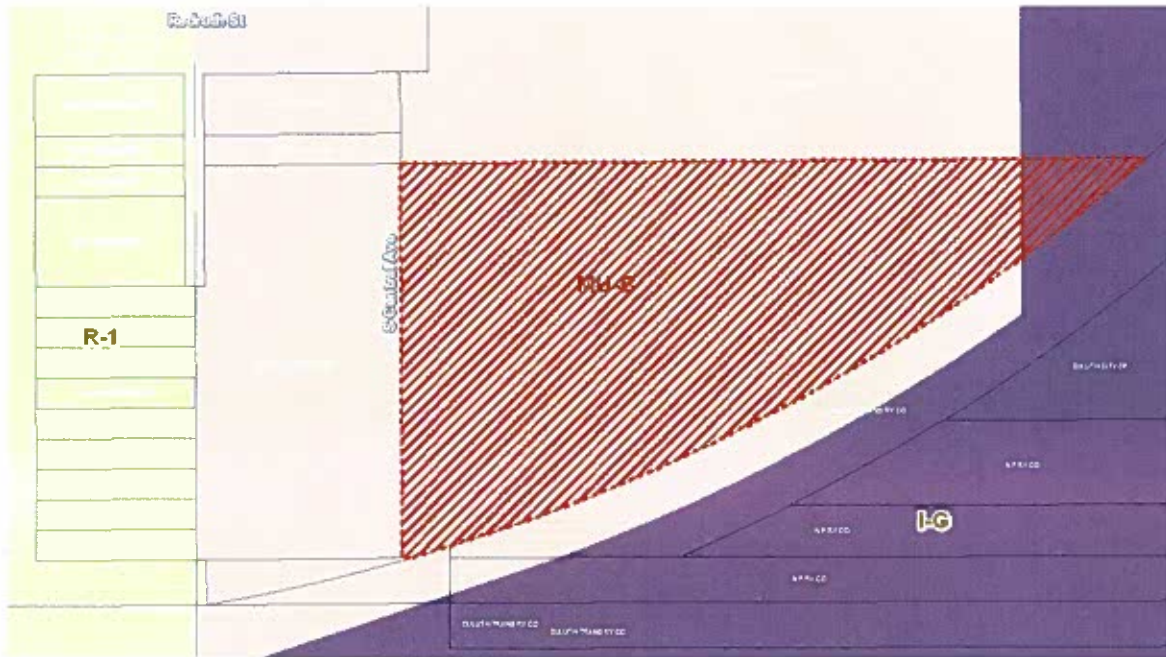
The city of Duluth does ordain:

Section 1. That the subject property, Tax Parcel No. 010-0130-00190, located at 306 South Central Avenue and as described as:

All that part of OUTLOT 1, REARRANGEMENT OF AUDITOR'S PLAT OF WEST DULUTH OUTLOTS, lying south of line parallel to and 807 feet south of the south line of Blocks 51, 50, 49, 48 West Duluth, First Division and Blocks 218, 219, and 249 West Duluth, Third Division, extended, including easterly 40 feet vacated Central Avenue abutting thereon, according to the recorded plat thereof.

be reclassified from MU-B, Mixed Use-Business Park, to I-G, Industrial-General, and that the official zoning map of the City of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

---



2. That this ordinance shall take effect 30 days after its passage and publication.

Approved as to form:

Robert E. Cash  
Attorney

PC:plng SR:eu 9/15/2011

STATEMENT OF PURPOSE: This zoning map amendment provides a zoning change from MU-B to I-G for the property located at 306 South Central Avenue, Tax Parcel No. 010-0130-00190.

The applicant had requested to rezone several of their parcels from MU-B and R-1 to I-G. On September 13, 2011, the Duluth City Planning Commission held a public hearing on the proposal and voted 5-1 to recommend that the city council approve a portion of the rezoning requested for the following reasons:

- 1) The rezoning request is consistent with the Comprehensive Land Use Plan Future Land Use Map;
- 2) The I-G zone district is consistent with the Comprehensive Land Use Plan description of the General Mixed Use future land use category;
- 3) The I-G zone district was established to provide for general to heavy impact industrial, processing, assembly, fabrication and manufacturing uses. The district is intended for locations close to major transportation corridors and active commercial centers.
- 4) Material adverse impacts on nearby properties are not anticipated.

The motion to approve the rezoning of MU-B to I-G by the city council must prevail with a simple majority.

Date of application: August 2, 2011

Action deadline: November 30, 2011

Petitioner:

William Burns, Representing D.M.A. & Associates  
Hanft Fride  
1000 U.S. Bank Bldg  
130 W. Superior Street  
Duluth, Minnesota 55802

FN 11-105



# CITY OF DULUTH

Planning Division

411 W 1<sup>st</sup> St, Rm 208 \* Duluth, Minnesota 55802-1197  
Phone: 218/730.5580 Fax: 218/723-3559

## STAFF REPORT

<b>File Number</b>	FN 11-106	<b>Contact</b>	Steven Robertson	
<b>Application Type</b>	Rezone: MU-B and R-1 to I-G	<b>Planning Commission Date</b>	September 13, 2011	
<b>Deadline for Action</b>	<b>Application Date</b>	August 2, 2011	<b>60 Days</b>	October 1, 2011
	<b>Date Extension Letter Mailed</b>	August 15, 2011	<b>120 Days</b>	November 30, 2011
<b>Location of Subject</b>	306 South Central Avenue			
<b>Applicant</b>	D.M.A. & Associates	<b>Contact</b>	Diane Anderson, dianne@demolicious.com	
<b>Agent</b>	William M Burns, Hanft Fride PA	<b>Contact</b>	wmb@hanftlaw.com	
<b>Legal Description</b>	See attached legal description			
<b>Site Visit Date</b>	August 28 & 31, 2011	<b>Sign Notice Date</b>	August 29, 2011	
<b>Neighbor Letter Date</b>	August 25, 2011	<b>Number of Letters Sent</b>	26	

### Proposal

The applicant would like to rezone the property to I-G. According to the applicant, "Rezoning the property I-G is consistent with the surrounding area and serves the public interest by allowing this facility, with a number of employees, (to) continue as a part of the economic generator in the City of Duluth. The service is useful and utility on a regular basis by citizens. Applicant believes that this rezoning is consistent with the general purpose of the Comprehensive Plan as it relates to this area."

	Current Zoning	Existing Land Use	Future Land Use Map Designation
<b>Subject</b>	MU-B/R-1	Industrial	General Mixed Use/Traditional Neighborhood
<b>North</b>	MU-B	Industrial	General Mixed Use
<b>South</b>	I-G	Industrial/Rail Transportation	General Mixed Use
<b>East</b>	I-G	Industrial/Rail Transportation	General Mixed Use
<b>West</b>	R-1	Residential	Traditional Neighborhood

### Summary of Code Requirements (reference section with a brief description):

UDC 50-37.3.B.1. The planning commission shall review the application, conduct a public hearing pursuant to Section 50-37.1, with public notice as required by Section 50-37.1.H, and make a written recommendation to council based on the criteria in subsection C below.

UDC 50-37.3.B.3.A. Where a proposed amendment to the zoning map would change any property from a Residential district to a Mixed Use, Form, or Special Purpose District, a planning commission hearing and a notice of 3 weeks shall be required. In addition, the affirmative vote of 2/3 of the council shall be required if: (i) The City has not received the written consent of the owners of 2/3 of those properties located wholly or partially within 100 feet of the property proposed to be rezoned.

UDC 50-37.3.C. The planning commission shall review the application, and council shall approve the application, or approve it with modifications, if it determines that the application: 1) Is consistent with the Comprehensive Land Use Plan; 2) Is reasonably related to the overall needs of the community, to existing land use, or to a plan for future land use; 3) Is required by public necessity, convenience, or general welfare, or good zoning practice; 4) Will not create material adverse impacts on nearby properties, or if material adverse impacts may be created they will be mitigated to the extent reasonably possible.

III B.1

## Comprehensive Plan Findings (Governing Principle and/or Policies) and Current History (if applicable):

### 1. Governing Principles:

Principle #8 - Encourage mix of activities, uses and densities

Future Land Use Map: General Mixed Use. The broadest mix of uses, including light industrial, office, commercial, and residential use, with performance standards to ensure compatibility. Includes areas that are in transition from industrial uses and large redevelopments that require master plans and phased development. General or heavy industrial can be included when a large site is master planned to allow appropriate separation of uses.

Future Land Use Map: Traditional Neighborhood. Characterized by grid or connected street pattern, houses oriented with shorter dimension to the street and detached garages, some with alleys. Limited commercial, schools, churches, and home-businesses. Parks and open space areas are scattered through or adjacent to the neighborhood. Includes many of Duluth's older neighborhoods, infill projects and neighborhood extensions, and new traditional neighborhood areas.

## Discussion (use numbered or bullet points; summarize and attach department, agency and citizen comments):

1) The Minnesota Municipal Planning Act (State Statute Chapter 462) provides that zoning, an "official control", should implement the general objectives of the Comprehensive Plan, and appellate courts have issued decisions that zoning must comply with the Comprehensive Plan or be considered arbitrary and capricious.

2) The Comprehensive Plan-Future Land Use Map identifies the area proposed for rezoning as "General Mixed Use" for the areas actively being used by Demo-Licious and Harbor City Masonry and "Traditional Neighborhood" for the areas being used for storage by Harbor City Masonry.

3) Staff received several phone calls and emails from citizens interested in both this Rezoning application and the accompanying Special Use application. Citizens were made aware of the fact that staff reports are published on the division's web site prior to the Public Hearing, and were also invited to attend the Planning Commission if interested. No additional comments were received from other city departments, other utilities, or governmental agencies.

4) Staff finds that the application is not consistent with the Comprehensive Land Use Plan as presented. Staff believe that the residential lots should not be rezoned, and the western MU-B lot should remain zoned MU-B. However, staff find that rezoning the eastern MU-B lot to I-G is consistent with the Comprehensive Land Use Plan. Staff believe that maintaining the "middle parcel", 010-4480-00900, as MU-B will act as buffer between the industrial and residential areas.

## Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):

Based on the above findings, staff recommends that the Planning Commission recommend approval to the City Council of the rezoning from Mixed Use-Business (MU-B) to Industrial-General (I-G) for the the following parcel: 010-0130-00190, denial of the rezoning from Mixed Use-Business (MU-B) to Industrial-General (I-G) for the the following parcel: 010-4480-00900, and denial of the rezoning from Residential (R-1) to Industrial-General (I-G) for the the following parcels: 010-4480-01120, 010-4480-01130, 010-4480-01140, 010-4480-01150, 010-4480-01160, 010-4480-01170, 010-4480-01180, 010-4480-01190, and 010-4480-01200.

III B.2

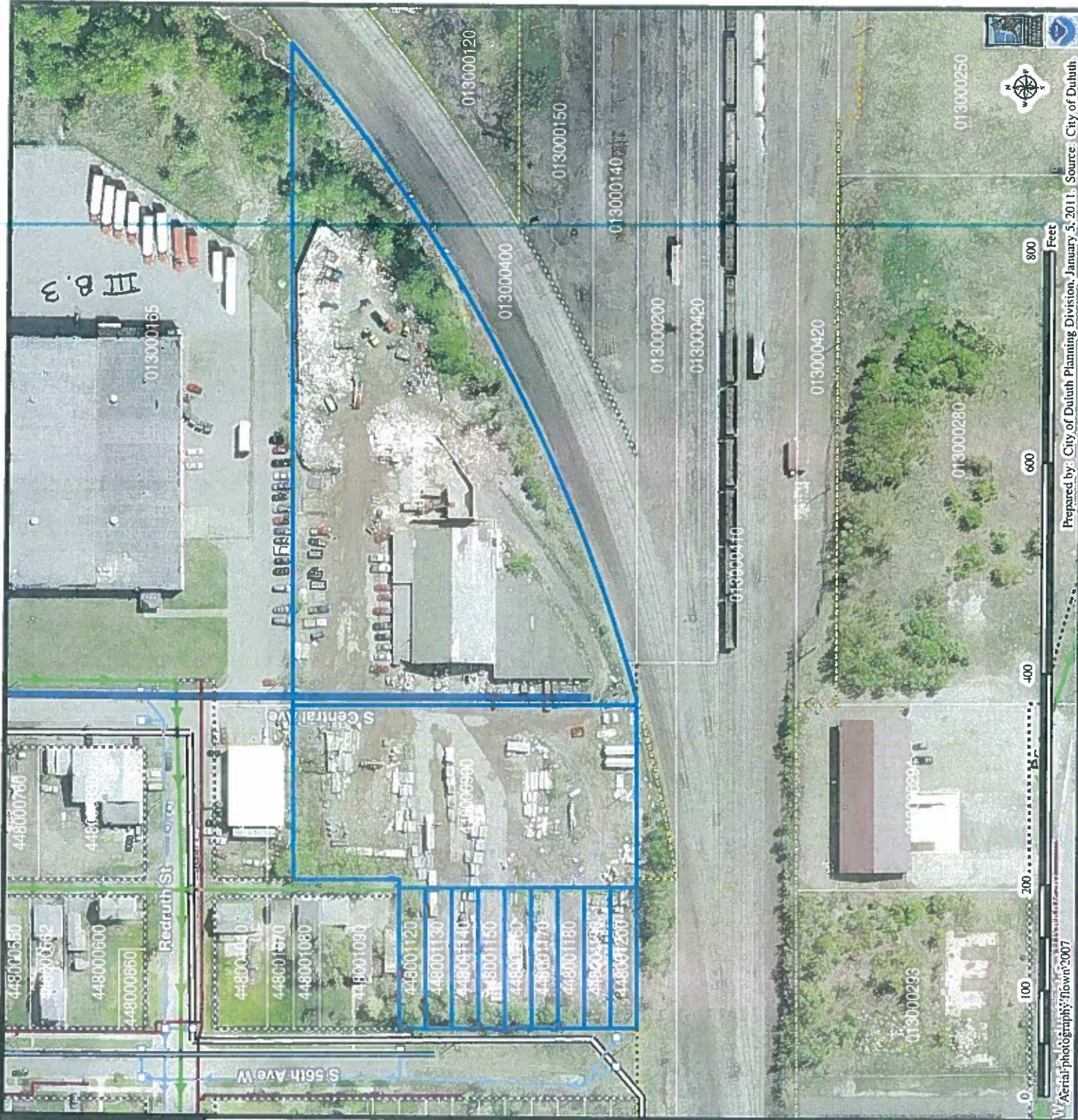
## Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)





## City Planning

Rezoning MU-B to I-G (11-106)  
SUP for Junk and Salvage (11-110)  
DMA & Associates  
Sept 13, 2011 PC Meeting



### Legend

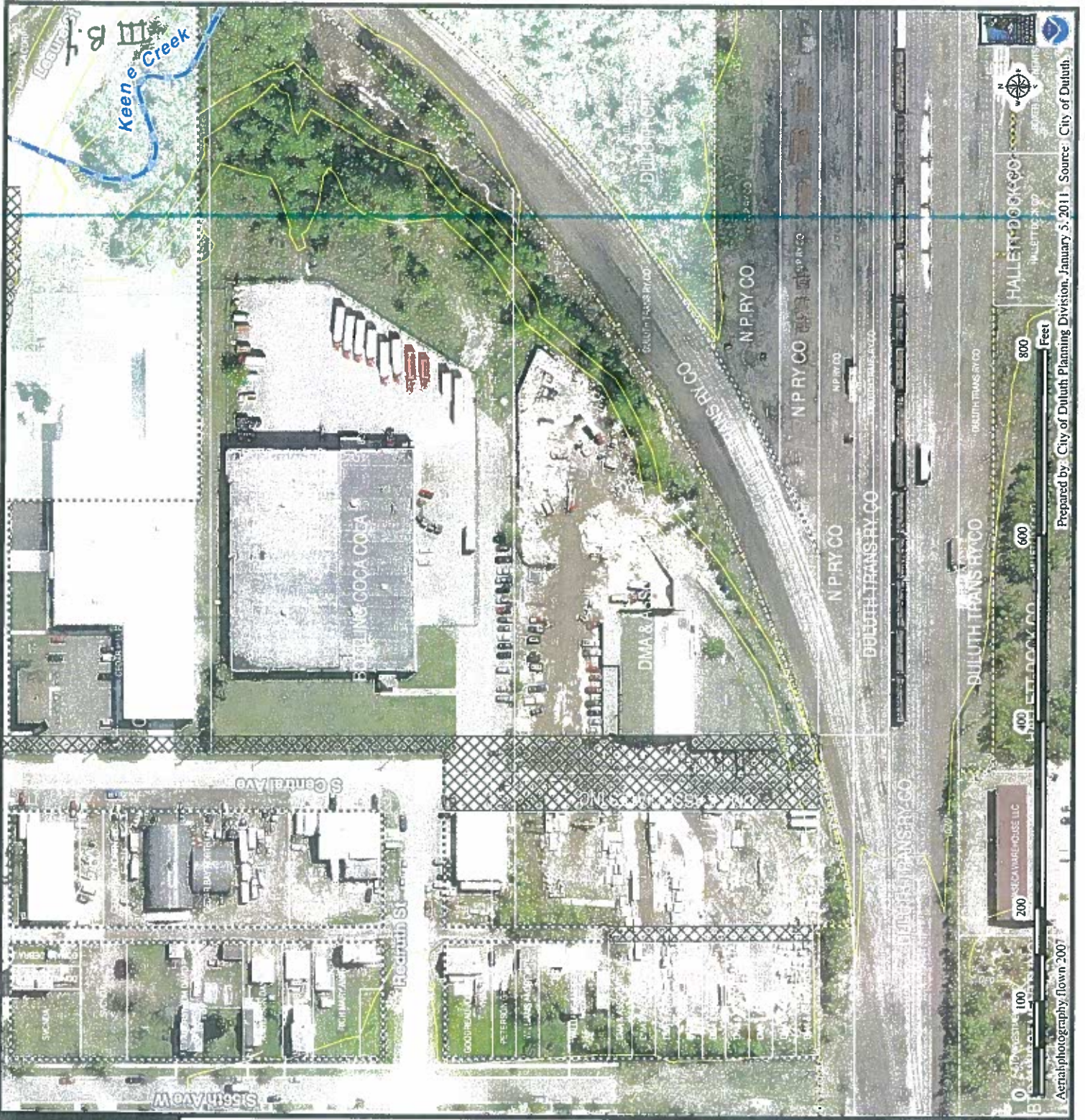
The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.





## City Planning

FN 11-106 and FN 11-110



### Legend

- Trout Stream (GPS)
- Other Stream (GPS)
- 10' Contour (elev. change)
- Right-of-Way Type**
  - Road or Alley ROW
  - Vacated ROW
- Easement Type**
  - Utility Easement
  - Other Easement
- Public Owned Land**
  - Tax Forfeited
  - City
  - School
  - County
  - State
  - Federal

The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.





# City Planning

FN 11-106 and FN 11-110

## Legend

Trout Stream (GPS)

Other Stream (GPS)

Zoning (Final)

### Future Land Use

Preservation

Recreation

Rural Residential

Low-density Neighborhood

Traditional Neighborhood

Urban Residential

Neighborhood Commercial

Neighborhood Mixed Use

General Mixed Use

Central Business Secondary

Central Business Primary

Auto Oriented Commercial

Large-scale Commercial

Business Park

Tourism/Entertainment District

Medical District

Institutional

Commercial Waterfront

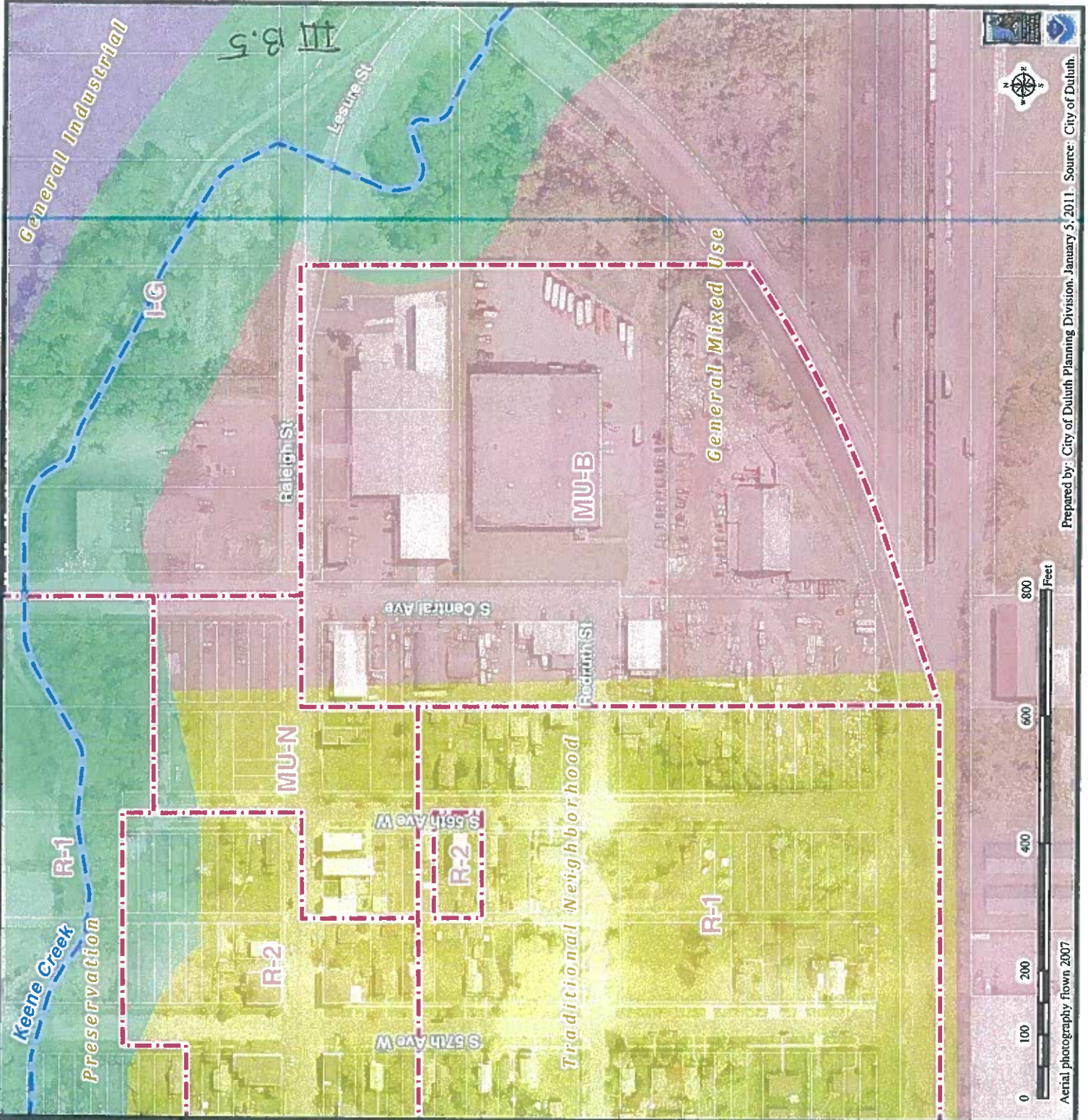
Industrial Waterfront

Light Industrial

General Industrial

Transportation and Utilities

The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.



Aerial photography flown 2007

Prepared by: City of Duluth Planning Division, January 5, 2011. Source: City of Duluth.



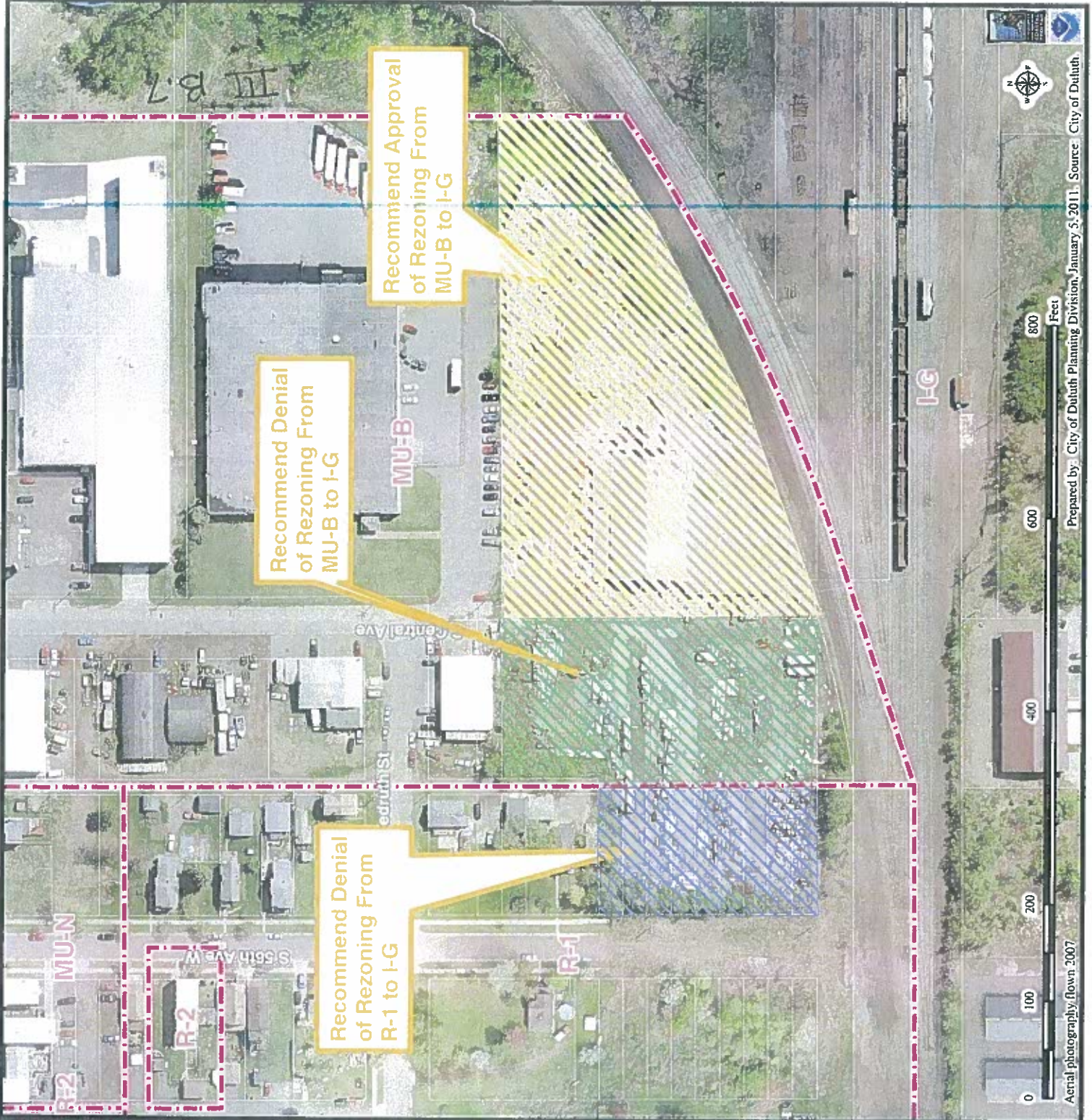






# City Planning

FN 11-106 Rezoning



## Legend

- Trout Stream (GPS)
- Other Stream (GPS)
- Zoning (Final)

The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.



Exhibit A  
UDC REZONING APPLICATION

The applicant operates a demolition, recycling and transfer station facility dealing with construction and other materials. The applicant does not handle household waste. The applicant's current zone, MU-B, inappropriately, in applicant's view, requires an operation like to be covered, would suggest that it is handling household waste.

Rezoning the property I-G is consistent with the surrounding area and serves the public interest by allowing this facility, with a number of employees, the continue as part of the economic generator in the City of Duluth. The service is useful and utilized on a regular basis by citizens.

Applicant believes that this rezoning is consistent with the general purposes of the Comprehensive Plan as it relates to this area.

III B.8

RECEIVED AUG 02 2011

Exhibit B  
UDC ZONNG MAP AMENDMENT PETITION

The Petitioner operates a demolition, recycling and transfer station facility dealing with construction and other materials. The Petitioner does not handle household waste. The Petitioner's current zone, MU-B, inappropriately, in Petitioner's view, requires an operation like to be covered, would suggest that it is handling household waste.

Rezoning the property I-G is consistent with the surrounding area and serves the public interest by allowing this facility, with a number of employees, the continue as part of the economic generator in the City of Duluth. The service is useful and utilized on a regular basis by citizens.

Petitioner believes that this rezoning is consistent with the general purposes of the Comprehensive Plan as it relates to this area.

III B.9

RECEIVED AUG 02 2011



EXHIBIT A

**PARCEL 1:**

All that part of OUTLOT I, REARRANGEMENT OF AUDITOR'S PLAT OF WEST DULUTH OUTLOTS, lying south of line parallel to and 807 feet south of the south line of Blocks 51, 50, 49, 48, West Duluth, First Division and Blocks 218, 219 and 249, West Duluth, Third Division, extended, including easterly 40 feet vacated Central Avenue abutting thereon, according to the recorded plat thereof.

Said land is SUBJECT to easement for conduits for wires, sewer, water and gas mains and other public utilities in vacated portion of Central Avenue, as the same was reserved and created by the vacation proceedings filed in the office of the Register of Titles April 19, 1918, as Document No. 31412.

**PARCEL 2:**

Lots Four (4) through Seven (7) inclusive, Block Sixty-seven (67), WEST DULUTH, SECOND DIVISION, including westerly 40 feet of vacated Central Avenue abutting thereon; and Lots Eight (8) to Sixteen (16) inclusive, Block Sixty-seven (67), WEST DULUTH, SECOND DIVISION, including westerly 40 feet of vacated Central Avenue abutting thereon and the easterly half of the vacated alley abutting thereon; and Lots Eight (8) to Sixteen (16) inclusive, Block Sixty-eight (68), WEST DULUTH, SECOND DIVISION, including westerly half of vacated alley abutting thereon, according to the recorded plat thereof.

EXCEPT all minerals in Lot Eight (8), Block Sixty-eight (68), West Duluth, Second Division. All of said Land is SUBJECT to an easement for utilities in vacated Central Avenue as the same was reserved and created by the vacation proceeding pertaining to said Central Avenue, recorded in the Office of Register of Deeds, in Book 19 of Miscellaneous, page 314.

III B. 10

RECEIVED AUG 02 2011